

Before the
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of

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Restoring Internet Freedom

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WC Docket 17-108

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Comments of Etsy, Inc.

July 17, 2017

Etsy, Inc.
117 Adams Street
Brooklyn, NY 11201



Comments in the Matter of Restoring Internet Freedom WC Docket No. 17-108

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Etsy is a global creative commerce platform that builds markets, services, and economic opportunities for creative entrepreneurs. Through Etsy, millions of people around the world connect, both online and offline, to make, sell, and buy unique goods.

Today, 1.8 million creative entrepreneurs—87% women—sell their goods through our platform.¹ While individually their businesses may be small, together these microbusinesses represent meaningful economic and societal impact, selling \$2.84B worth of goods in 2016 alone.

That success, which enables a stay-at-home mom to pursue her passions while supporting her family, is dependant on strong, enforceable net neutrality protections. We urge the FCC to protect internet-enabled microbusinesses by preserving the bright line rules and regulatory authority established in the FCC's *2015 Open Internet Order*.

NET NEUTRALITY DRIVES GROWTH AND INNOVATION IN TODAY'S ECONOMY

Etsy would not exist without net neutrality. Founded in 2005 by a furniture maker who was frustrated by the lack of opportunities to sell his wares online, Etsy was built by a few people in a small Brooklyn apartment. Etsy's founders were able to build and launch the website, attract users, and demonstrate the viability of their product with very limited resources. Their early success attracted investors, who felt confident financing the young company in part due to its proven track record on the open market.

Today, Etsy hosts buyers and sellers in nearly every country in the world. In 2016, over 1.8 million creative entrepreneurs sold \$2.84B in goods to nearly 30 million people around the globe. Etsy employs hundreds of people in offices across the globe, and became a publicly traded company in April 2015. In 2016, our gross merchandise sales grew 19% from 2015, and our revenue increased 33% year-over-year.²

In many ways, Etsy's story is not uncommon. There are hundreds of successful internet startups founded by a small group of people in a basement, garage, or coworking space. They harnessed the power of the internet in order to turn a great idea and shoestring budget into a thriving business. These startups were able to compete with bigger, more established companies and build market share precisely because they didn't have to pay cable companies for the privilege of accessing users, or suffer slower load times than an entrenched competitor. Investors continue to support these type of companies because, with a level playing field, they are able to show real products and outcomes from the outset.³

¹ Active Etsy sellers as of March 31, 2017.

² Etsy. *Annual Report on Form 10-K for the Year-ended December 31, 2016*. 2017.

³ Engine, et. al. to the FCC. April 26, 2017.

The internet enables 3.2 billion people around the world to connect, and record numbers of Americans are now using the internet for work, leisure, and commerce.⁴ The internet economy accounted for nearly 6% of the US GDP in 2014, and 21% of GDP global growth in mature economies between 2006-2011.^{5,6} The online economy flourished in part because the democratic nature of the internet lowers startup costs and creates an even playing field for new companies to compete. That democratic access makes the internet a hotbed of innovation, where anyone with an idea and an internet connection can start and grow a global business—even spark new industries.

The internet economy is powerful not just because it powers technology startups in Silicon Valley, but because it enables small and micro-businesses in other sectors. For example, Etsy *employs* under 1,000 people, and it *enables* 1.8 million creative entrepreneurs to start and grow their businesses online. Prior to the open internet, a creative entrepreneur relied on foot traffic to bring customers to their store in order to sell their wares, limiting their total addressable market to the customers they were able to reach in person. With an open internet creative entrepreneurs from all over the country can reach a global customer base. In fact, sellers have started Etsy shops in 99.9% of all US counties.⁷

Etsy has long functioned as an on-ramp to entrepreneurship by creating opportunities for many people who might not have started a business otherwise. Across our platform, 87% of sellers are women, which is in stark comparison to just 33% of US business owners nationally. The vast majority of our sellers are businesses of one, and 97% work from their home. For 53% of sellers, Etsy was the first place they sold their goods.

Our sellers' creative businesses make a real difference in their lives. For 32% of Etsy sellers, their creative business is their sole occupation, and for the rest, their Etsy shop provides an important source of supplemental household income, often covering necessary household expenses. Without strong net neutrality protections, these microbusinesses could not compete with larger, more established brands.

CLEAR, BRIGHT LINE RULES PROHIBITING BLOCKING, THROTTLING, PAID PRIORITIZATION, AND UNREASONABLE INTERFERENCE/DISADVANTAGE ARE ESSENTIAL TO PROTECTING INNOVATION ONLINE

In its Notice of Proposed Rulemaking (NPRM), the Commission affirms its belief that a free and open internet is essential to fostering innovation online. We are relieved that the Commission shares this belief, but have serious concerns about the suggestion that one could achieve this goal *without* bright line rules prohibiting blocking, throttling, and paid prioritization. Simply put, there is no free and open internet without these essential protections.

Blocking the lawful content of a competitor is bad for competition and the economy. Internet Service Providers (ISPs) should not be able to pick and choose which e-commerce platforms their customers can access, just as they should not decide whether a household watches “Good Morning America” or “The Today Show.” The economy is stronger when competitors can prove their value on an open market, and customers can make informed

⁴ “Internet/Broadband Factsheet.” *Pew Research Center*. Web. 11. Jul. 2017.

⁵ The Internet Association. *Refreshing our understanding of the Internet Economy*. June 2017.

⁶ McKinsey Global Institute. *The great transformer: The impact of the Internet on economic growth and prosperity*. October 2011.

⁷ Etsy. *Crafting the future of work: the big impact of microbusiness*. March 2017.

choices about where to spend their time and money. Yet, if the ban on blocking was overturned, ISPs could strip consumer choice in content, weakening competition, and ultimately, the quality of products and services for everyone.

The last decade has shown a rapid increase in the number of ISPs entering the content business. For example, Comcast now owns NBCUniversal, and Verizon owns Oath, which operates digital content brands like HuffPost, Tumblr, Flickr, and TechCrunch. With AT&T's multibillion dollar bid to buy Time Warner in the works, it's obvious that content is the future for ISPs. Due to these trends, ISPs will have greater business incentives to block or discriminate against competitors' content. In its NPRM, the Commission states "We emphasize that we oppose blocking lawful material. The Commission has repeatedly found the need for a no-blocking rule on principle, asserting that 'the freedom to send and receive lawful content and to use and provide applications and services without fear of blocking is essential to the Internet's openness.'"⁸ We couldn't agree more, and believe that a clear and absolute prohibition on blocking lawful content is the simplest means to accomplish this policy aim. If ISPs do not intend to block content, then a simple rule prohibiting the activity creates no new burdens for them. In fact, it would help these businesses by creating regulatory certainty that their competitors will be barred from such practices.

Throttling has still more insidious impacts on innovation online. It is well documented that slower load times have a negative impact on visits, conversion, and ultimately revenue.⁹ Research from Google indicates that delays of 250 milliseconds cause consumers to click away, and consumer expectations are changing quickly.¹⁰ In 2006, Forrester Research found that the average consumer would wait four seconds before clicking away, a number that dropped to two seconds by 2009.¹¹ Allowing ISPs to pick winners and losers by throttling the lawful content of a competitor would completely undermine fair competition online.

Finally, the prohibition on paid prioritization is a core protection that enables small and microbusinesses to flourish online. If the Commission allows ISPs to charge for faster access to consumers, it would create fast and slow lanes online, advantaging more established companies over new entrants and small businesses who might not be able to pay, or even have the bargaining power or access to negotiate such deals.

Since we were founded, Etsy has democratized entrepreneurship and our sellers have challenged the conventional notions of what it means to pursue a business. Ninety-seven percent of Etsy sellers work from their home, and 77% are businesses of one. These are the smallest of small businesses—microbusinesses—who nevertheless successfully compete with much bigger brands in the global marketplace. Allowing paid prioritization would harm our sellers, and stifle an income stream that contributes to financial security and wellbeing for makers and curators across the country.

Some have argued that marketplaces like Etsy could incur new fees for faster access on behalf of the businesses that sell through their platforms. However, it's worth remembering that many Etsy sellers use multiple venues to sell their goods, including personal websites, which would not benefit from such access. Further, Etsy charges only \$0.20 to list an item and takes just 3.5% of each transaction. These fees don't allow much cushion to incur new costs, and if we were forced to raise our fees, that would amount to a transfer of wealth from the pockets

⁸ *Restoring Internet Freedom*, WC Docket No. 17-108, Notice of Proposed Rulemaking, FCC 17-60. Page 26.

⁹ Kate Eaton, "How One Second Could Cost Amazon \$1.6 Billion in Sales," *Fast Company*, March 12, 2012.

¹⁰ Google Research Blog. *Speed Matters*. June 2009.

¹¹ Steve Lohr, "For Impatient Web Users, an Eye Blink is Just Too Long to Wait," *The New York Times*, February 29, 2012.

of 1.8 million creative entrepreneurs into the coffers of large cable companies. Finally, Etsy itself is a mid-sized company competing with much larger, more entrenched players in the market. If an ISP were to negotiate an exclusive deal with one of our larger competitors, we might not be able to purchase faster access for our sellers, period.

The Commission has asked whether bright lines rules are necessary to protect net neutrality, and whether ISPs might comply with an alternative voluntary standard. The history of ISP actions and public statements on this topic demonstrate the naiveté of this approach. ISPs have gone on record saying that they would create fast lanes for those who would pay, and have a documented history of blocking and throttling.¹² These instances occurred despite the de facto net neutrality conditions we lived under due to previous FCC proceedings. One need only look at the cable companies' relentless efforts to overturn net neutrality rules in court—under any regulatory authority, including the one currently proposed by the Commission—to conclude that voluntary standards would not work. Given that ISPs have a financial incentive to block, throttle, and accept higher payment for higher speeds, we simply cannot expect them to enforce strong net neutrality protections voluntarily.

Additionally, preserving the Commission's ability to regulate future abuses and discriminatory practices through a general conduct rule is essential to preserving net neutrality. Technology changes quickly, and emerging practices such as zero rating and throttling at the point of interconnection represent new forms of discrimination that the Commission should have authority to evaluate on a case-by-case basis. For this reason, we urge the Commission to preserve the rule in the *2015 Open Internet Order* prohibiting unreasonable interference/disadvantage.

We also believe that all protections should apply equally to mobile and desktop, as well as points of interconnection. Today, more people than ever access the internet through their mobile devices. According to Pew, 77% of Americans owned a smartphone in 2016, up from only 35% just five years before.¹³ For younger Americans, aged 18-29, 92% own internet-connected mobile devices, which demonstrates the importance of preserving equal protection to the internet, no matter how you access it.¹⁴

Mobile is essential to the growth of Etsy's business, and the microbusinesses of sellers on our platform. Etsy sellers use mobile devices to operate their businesses on Etsy and customers increasingly make purchases through mobile. In the first quarter of 2017, more than half (51%) of the gross merchandise sales on Etsy came from mobile purchases, up from approximately 47% for first quarter in 2016.¹⁵ Given consumer reliance on mobile to access the internet, neutrality protections should be consistent across desktop and mobile devices.

Microbusinesses across the US depend on strong, enforceable net neutrality protections to build their business and support their families. We urge the Commission to prioritize the needs of these entrepreneurs, who power our national economy, when weighing the issues outlined in the NPRM.

¹² AlphaSense. *Net Neutrality at Risk*. February 7, 2017.

¹³ "Mobile Factsheet." *Pew Research Center*. Web. 11. Jul. 2017.

¹⁴ *Ibid*.

¹⁵ Etsy. *Quarterly Report on Form 10-Q for the Period-ended March 31, 2017*. 2017.

TITLE II IS THE ONLY REGULATORY AUTHORITY AVAILABLE TO ESTABLISH CLEAR, BRIGHT LINE RULES

The Commission's proposed "light-touch regulatory framework" misrepresents the past, and leaves out important context of why the Title II reclassification was necessary. Substantially changing policy based on flawed logic and a redacted history is dangerous for the future of innovation and entrepreneurship.

In the NPRM, the Commission acknowledges that it opposes blocking lawful material, and that, 'the Verizon court made clear that the Commission's 2010 no-blocking rule impermissibly subjected Internet service providers to common-carriage regulation.'¹⁶ The courts have been crystal clear. Bright lines rules preventing blocking and discrimination are only allowable if ISPs are classified as common carriers under Title II.¹⁷ That's why Etsy was an early and vocal supporter of reclassification, and an intervenor in the case defending the *2015 Open Internet Order*. Title II is the only mechanism available to the FCC under current law to protect the open internet, as the courts have rejected the FCC's authority to enforce bright line rules under Title I time and time again.

STRONG, ENFORCEABLE NET NEUTRALITY RULES WILL HELP THE ECONOMY AND CREATE JOBS

We contest the Commission's claims that rolling back net neutrality protections is "good for the American people."

¹⁸ Indeed, if enacted, this proposal would undermine consumer access for millions of Americans online. The NPRM alleges that reclassification under Title II has squashed investments in broadband infrastructure, meaning that fewer low-income rural and urban Americans have access to the internet. This false claim has already been disproved by several analyses of government data, including by reports from the Internet Association¹⁹ and Free Press.²⁰

We would like to add to the record that internet-enabled microbusinesses in rural areas have, in fact, *flourished* since the *2015 Open Internet Order*. The percentage of Etsy sellers in rural areas has nearly doubled since 2013. Now, 28% of Etsy sellers in the US are from rural areas, and Etsy shops have been opened in 99.9% of all US counties. These entrepreneurs depend on a free and open internet to reach global markets from the first day they open their shop, and often international exporters in their own right.

Chairman Pai alleges that reclassification under Title II has led to fewer new entrants to the market and that this proposal will be a job creator, as "more Americans will go to work building [new] networks."²¹ Encouraging small competitors to enter the market is noble, but the cost to the millions of internet-enabled microbusinesses would far exceed the short-term job creation the Commissioner expects. The Commission's proposal would result in stifled innovation for future technologies, and discourage would-be entrepreneurs from getting their start online because of increased costs.

¹⁶ *Restoring Internet Freedom*, WC Docket No. 17-108, Notice of Proposed Rulemaking, FCC 17-60. Page 27.

¹⁷ Verizon, 740 F.3d at 649-58.

¹⁸ Remarks of the FCC Chairman Ajit Pai at the Newseum. "The Future of Internet Freedom," April 26, 2017.

¹⁹ The Internet Association. *Principles to Preserve and Protect an Open Internet*. June 2017.

²⁰ Free Press. *It's Working: How the Internet Access and Online Video Markets are Thriving in the Title II Era*. May 2017.

²¹ Remarks of FCC Chairman Ajit Pai at the Newseum.

For long-term, sustainable jobs, the Commission should look to the massive increase in e-commerce jobs, including warehouse distribution centers,²² and the steady rise in internet-enabled entrepreneurship. For example, the number of active Etsy sellers increased 37% since our last public comment on this issue in 2014.²³ Repealing net neutrality protections is an extreme and short-sighted attempt to solve a perceived issue that, even if it did exist, could be remedied with more suitable tools like legislative funding for broadband infrastructure investments.

THE ETSY COMMUNITY SUPPORTS STRONG NET NEUTRALITY PROTECTIONS UNDER TITLE II

Etsy believes in using the power of business to strengthen communities and empower people. That's why our community has fought so hard to safeguard the basic principles of net neutrality.

When the former FCC Chairman proposed rules that would have undermined these principles, over 30,000 members of the Etsy community contacted the FCC and Congress to tell them how proposals like these would impact their business, and some creative entrepreneurs even 'crafted' comments of their own.

Already this year, Etsy sellers have submitted thousands of comments in support of the current rules. Each comment submitted to the Commission contains an inspiring story of an entrepreneur who relies on the open internet to make both a living and a life. While we encourage you to read the thousands of comments submitted, we wanted to surface a few of the most salient stories that capture the truly damaging impact this proposal would have on our community.

Take Bethany Paige from RoseAndRuffle in New Hampshire,²⁴ who wrote:

A few years ago, because of the encouragement of family and friends, I opened an Etsy shop. I still remember my very first sale to this day, and it made me feel proud and capable. I still feel this way, as the online marketplace has provided me the opportunity to help support my family in a way that I would not otherwise be able to do. I am a mother of five, and I do not currently work outside the home. The income that is generated through my shop directly affects the wellbeing of my family, my children. Not only does it help pay for unexpected car repairs and groceries and trips to the doctor, it enables me to enrich their lives with sports and music and summer camp.

I am asking that you please consider my small business, as well as countless others that would be affected by these proposed changes. We are real people working very hard to compete in an already overwhelming marketplace, and we rely on a fair and neutral internet. Our unique businesses offer what larger chain and retail stores cannot: individualized, custom, hand-crafted goods.

22 Progressive Policy Institute. *The Economic Impact of Data: Why Data is Not Like Oil*. July 2017.

23 There were 1,135,000 active sellers in period-ended March 31, 2014, and 1,801,000 active Etsy sellers in period-ended March 31, 2017. Etsy. *Annual Report on Form 10-K for the Year-ended December 31, 2015*. 2016.

24 Comments of Bethany Paige to the FCC in the Matter of Restoring Internet Freedom (WC Docket 17-108). May 31, 2017. <https://www.fcc.gov/ecfs/filing/10601061778928>

I take pride in my small business. I take pride in my work. I enjoy communicating directly with customers. There is value and integrity in doing what we do, and I think our customers across the globe would agree. But if they are unable to find us in reliable searches, if our small shops are pushed into slow lanes, our reach will be diminished and in turn, rather than prosper and flourish as our businesses should, they will fail because we will not be able to compete. We aren't asking for unfair advantages or extra perks, simply a fair playing field.

Dawn Chandler from DawnChanglerStudio in New Mexico²⁵ wrote:

I am a self-employed artist, making a modest living selling my paintings online. Occasionally visitors to my studio—which is in my home—purchase a painting. But the vast majority of my sales—indeed, probably 85% of my income—is the direct result of net neutrality. Chairman Pai's proposal to repeal net neutrality would be catastrophic to my ability to support myself as a visual artist. I simply haven't the resources to be able to compete with well-financed companies who would be able to negotiate special deals with broadband providers were net neutrality repealed. My livelihood and career—as well as the livelihoods and careers of hundreds of thousands of other American artists and American craftsmen—is utterly dependent on a free and open internet I ask you—I urge you: please support the FCC's existing net neutrality rules based on Title II and tiny businesses like mine.

Christy Alexander from AlexanderArtworks in Kansas²⁶ wrote:

My husband and I are running a real-life “Mom and Pop” store in a struggling rural community. We are part of the lifeblood that is keeping our small-town economy alive. The only way we are able to be successful is by supplementing our income with internet sales. The internet affords us the opportunity to reach a global audience without leaving our hometown... Chairman Pai's proposed plan to repeal net neutrality protections would put a huge burden on microbusinesses like mine.

We urge the Commission to reconsider the proposal outlined in the NPRM, which would fundamentally undermine the free and open nature of the internet. Instead, we urge the commission to preserve the bright line rules prohibiting blocking, throttling, paid prioritization and unreasonable interference/disadvantage, and preserve the Commission's authority to regulate broadband under Title II of the Communications Act. Preserving these net neutrality protections will ensure that companies big and small have the same opportunity to succeed based on the merits of their products, not the depths of their pockets.

25 Comments of Dawn Chandler to the FCC in the Matter of Restoring Internet Freedom (WC Docket 17-108). July 12, 2017. <https://www.fcc.gov/ecfs/filing/107122575604015>

26 Comments of Christy Alexander to the FCC in the Matter of Restoring Internet Freedom (WC Docket 17-108). June 1, 2017. <https://www.fcc.gov/ecfs/filing/106010171204594>